

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/765,822
Filing Date: January 27, 2004
Applicant: Paul E. Krajewski et al.
Group Art Unit: 1745
Examiner: John S. Maples
Title: EXTRUDED BIPOLAR PLATES
Attorney Docket: GP-303999

Mail Stop Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FROM REQUIREMENT FOR RESTRICTION

Sir:

Pursuant to 37 CFR §1.144, Applicant hereby petitions that the Requirement for Restriction mailed April 19, 2006 be reversed. Applicant believes that no fee is necessary for this Petition.

The Restriction Requirement required restriction between Group I, Claims 1-18, drawn to a fuel cell/bipolar plate and Group II, Claims 22-24, drawn to a second fuel cell. Applicant elected Group I with traverse, and requested reconsideration in the Response to Restriction Requirement being filed concurrently herewith.

Applicant submits that the Restriction Requirement is improper. The Examiner supports his position that the invention of Groups I and II are distinct because the Group I fuel cell includes anode and cathode flow channels provided at outside edges of the first and second bipolar plate, which is not found in the fuel cell of Group II. Also, the


fuel cell of Group II includes multiple channels for both oxidant/fuel/coolant, which is not found in the Group I fuel cell.

Both the inventions of Group I and II claim anode and cathode flow channels in the plural (claims 5 and 22). The invention of Group I claims that the anode and cathode flow channels are provided at outside edges of the bipolar plate (claim 6) and the invention of Group II claims that the cathode and anode flow channels are at opposite sides of the bipolar plates (claim 22). Therefore, Applicant submits that it is improper to restrict the invention of Groups I and II as suggested by the Examiner.

MPEP 806 states "[w]here restriction is required by the Office, double patenting cannot be held, and thus, it is imperative the requirement should never be made where related inventions as claimed are not distinct." If the restriction requirement is held proper, it is the PTO's determination that a fuel cell including anode and cathode flow channels at outside edges of the bipolar plates is distinct from a fuel cell that includes cathode and anode flow channels at opposite sides of the bipolar plates.

For the reasons given above, Applicant submits that the Restriction Requirement is improper and should be withdrawn.

Respectfully submitted,

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